

AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 659**

**Introduced by Assembly Member Jackson**  
(Principal coauthor: Senator Kuehl)

February 19, 2003

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An act to amend ~~Section 13159 and 114815 of Sections 13159, 114815, 115070, and 115093 of, and to add Sections 114821, 114822, 114823, 115071, 115072, and 115156 to,~~ the Health and Safety Code, relating to radioactive waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 659, as amended, Jackson. ~~State Fire Marshal: radioactive~~  
*Radioactive waste: high-level radioactive materials and spent nuclear fuel: transportation.*

~~Existing~~

(a) *Existing* law requires the State Fire Marshal, among other things, to develop a model plan or system for use by fire departments for the control of fires and the safety of firefighters where hazardous materials are involved, and to study the feasibility of establishing a depository of information on hazardous material characteristics.

This bill would require the State Fire Marshal to include, in that model plan and depository, high-level radioactive waste and spent nuclear fuel, as defined. *The bill would additionally require the State Fire Marshal to create a committee with a specified membership to develop and oversee implementation of a statewide radiation safety training program to train all local emergency responders, and to implement that program by July 1, 2004, for all shipment as to which*

*planning commenced prior to January 1, 2004. For all shipments for which planning is commenced after that date, the bill would require the local emergency responder training program to be implemented at least one year prior to the shipment date. The bill would require the State Fire Marshal, by January 1, 2005, to submit a report to the Legislature identifying any equipment needed for responding to emergency situations involving high-level radioactive waste or spent nuclear fuel.*

*(2) Existing law requires the State Department of Health Services to adopt reasonable regulations that promote the safe transportation of radioactive materials, including the use of signs, the manner in giving notice of shipments, packaging and handling, and equipment and operations of the vehicle. A violation of these regulations is a crime.*

*Existing law requires the Department of the California Highway Patrol to adopt regulations specifying the time that shipments may occur and the routes that are to be used in the transportation of cargoes of hazardous radioactive materials and requires carriers of these materials to provide advance notice prior to the transport of these materials.*

*This bill would define “high-level radioactive waste” and “spent nuclear fuel” for purposes of these provisions and would require the State Department of Health Services to submit a report to the Legislature by July 1, 2005, concerning the adequacy of existing packaging, routing, and timing requirements. The bill would require the State Department of Health Services and the Office of Emergency Services, with the assistance of the Department of the California Highway Patrol, to include in the nuclear threat emergency response plan information regarding the responsibilities of all state agencies relating to the transportation of high-level radioactive waste and spent nuclear fuel and a training program for law enforcement officers along the designated routes. The bill would require the State Department of Health Services to adopt regulations to promote the safe transportation of high-level radioactive waste and spent nuclear fuel. The bill would require the Department of the California Highway Patrol to adopt regulations specifying the time at which shipments of these materials may occur and the routes to be used in the transportation of high-level radioactive waste and spent nuclear fuel.*

*The bill would require a shipper of these materials to participate in a tracking program and to provide the State Department of Health Services with proof and results of the testing of the casks used to transport those materials. The bill would require the manufacturer of*



*the cask or the appropriate federal authority, if so authorized, to conduct the full-scale physical cask testing. The bill would require these materials, when transported by vehicle, to be transported in convoys, except as specified, and would prohibit these materials from being transported by rail in mixed cargo shipments. The bill would require the person transporting these materials by vehicle to be escorted by the Department of the California Highway Patrol, except as specified, and would require a person transporting these materials by rail to be escorted by emergency response personnel, except as specified.*

*The bill would require all shipments of spent nuclear fuel or high-level radioactive waste to be inspected by personnel designated by the department and would require additional inspections, as specified. The bill would impose a state-mandated local program, as the failure to conduct those inspections would be a crime.*

*(4) Existing law requires a person who releases hazardous materials upon a highway to notify the Department of the California Highway Patrol and requires a person who deposits any material upon a highway to remove that material, and if the person fails to remove that material, the governmental agency responsible for the maintenance of the street or highway is authorized to collect the actual cost of the removal operations. Existing law also provides that the expenses of an emergency response necessary to protect the public from a threat to public health or safety by a release of hazardous substances are a charge against the person whose negligence causes the incident.*

*This bill would provide that if any state property is damaged, or there is a discharge or threat of discharge, of high-level radioactive waste or spent nuclear fuel from an authorized shipping package or container, the state would be authorized to recover the costs incurred by the state in the reparation of that damage. The bill would require all carriers of these materials to provide proof of a bond or insurance in the amount of \$25,000,000, as specified.*

*(5) The bill would require the department, if it determines that any requirement added by the bill may be funded pursuant to the Nuclear Waste Policy Act, to implement those requirements only to the extent that federal funds are provided.*

*(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*



*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 13159 of the Health and Safety Code is
- 2 amended to read:
- 3 13159. The State Fire Marshal, with policy guidance and
- 4 advice from the State Board of Fire Services, shall have the
- 5 following responsibilities:
- 6 (a) To make fire service training and education programs,
- 7 including training and education in the use of heavy rescue
- 8 equipment, available on a voluntary basis to fire departments that
- 9 rely extensively on volunteers.
- 10 (b) Cooperate with the State Board of Fire Services in the
- 11 development of a minimum standards program for fire service
- 12 personnel and fire service instructors.
- 13 (c) Assist and cooperate with State Board of Fire Services
- 14 pursuant to Section 13159.8.
- 15 (d) Verify that minimum curriculum requirements, facilities,
- 16 and faculty standards for schools, seminars, or workshops
- 17 operated by or for the state for the specific purpose of training fire
- 18 service personnel are being met.
- 19 (e) Make or encourage studies of any aspect of fire service
- 20 training and education.
- 21 (f) Determine the need for, and recommend locations of,
- 22 regional training sites.
- 23 (g) ~~(H) Create a committee, including representation from the~~
- 24 ~~California State Firefighters Association Hazardous Materials~~
- 25 ~~Committee, the California Firefighter Joint Apprenticeship~~
- 26 ~~Program, the California Professional Firefighters' Health and~~
- 27 ~~Safety Committee, and the Office of Emergency Services, to~~
- 28 ~~develop and oversee implementation of a statewide radiation~~
- 29 ~~safety training program for the purpose of training personnel who~~
- 30 ~~will train all local emergency responders including firefighters~~
- 31 ~~and emergency medical services personnel with duties along all~~
- 32 ~~routes designated for the transport of high-level radioactive waste~~
- 33 ~~or spent nuclear fuel, as specified in accordance with subdivision~~



(d) of Section 114821. The training of all local emergency responders shall be administered by local emergency response agencies and coordinated through the State Fire Marshal. The local emergency responder training program for a shipment for which planning commenced before January 1, 2004, shall be implemented as part of the California Fire Service Training Program of the Department of Forestry and Fire Prevention by July 1, 2004. For a shipment for which planning commences on or after January 1, 2004, the local emergency responder training program shall be implemented at least 12 months prior to the shipment date for the initial shipment along a given route and six months prior to the shipment date for subsequent shipments along that same route, as needed, and shippers shall notify the Office of the State Fire Marshal and the Office of Emergency Services in writing one year in advance of the shipment date. The State Fire Marshal may include, as part of the program, annual followup training for emergency personnel along those routes, to be conducted by each local agency providing fire control services and emergency medical services along those routes.

(h) Develop a model plan or system for use by fire departments for the control of fires and the safety of firefighters where hazardous materials, including, but not limited to, high-level radioactive waste or spent nuclear fuel, are involved.

~~(h)~~

(i) Study the feasibility of establishing within the office of the State Fire Marshal, a depository of information on hazardous material characteristics, including, but not limited to, high-level radioactive waste or spent nuclear fuel, for use by local fire departments and other entities that respond to emergencies.

~~(i)~~

(j) (1) On or before January 1, 2005, submit a report to the Legislature identifying any equipment needed for responding to emergency situations involving high-level radioactive waste or spent nuclear fuel.

(2) For purposes of this section, high-level radioactive waste or spent nuclear fuel, have the same meaning as defined in Section 114815.

SEC. 2. Section 114815 of the Health and Safety Code is amended to read:

1 114815. For the purposes of this article, the following  
2 definitions apply:

3 (a) “High-level radioactive waste” and “spent nuclear fuel”  
4 have the same meaning as defined in Section 10101 of Title 42 of  
5 the United States Code.

6 (b) “Radioactive materials” includes any material or  
7 combination of materials that spontaneously emits ionizing  
8 radiation.

9 *SEC. 3. Section 114821 is added to the Health and Safety*  
10 *Code, to read:*

11 *114821. (a) The department, with the assistance of the Office*  
12 *of Emergency Services, the Department of the California Highway*  
13 *Patrol, and the State Fire Marshal, shall, with respect to a*  
14 *high-level radioactive waste or spent nuclear fuel do both of the*  
15 *following:*

16 *(1) Study the adequacy of current packaging requirements for*  
17 *high-level radioactive waste and spent nuclear fuel.*

18 *(2) Study the effectiveness of special routing and timing for*  
19 *high-level radioactive waste or spent nuclear fuel shipments in the*  
20 *protection of the public health.*

21 *(b) The department and the Office of Emergency Services, with*  
22 *the assistance of the Department of the California Highway*  
23 *Patrol, shall include in the nuclear threat emergency response*  
24 *plan, specified in subdivision (c) of Section 114820, information*  
25 *regarding the responsibilities of all state agencies relating to the*  
26 *transportation of high-level radioactive waste and spent nuclear*  
27 *fuel and a training program for law enforcement officers along the*  
28 *designated shipping routes necessary to deal with threats posed by*  
29 *those materials.*

30 *(1) The training for law enforcement officers to be included in*  
31 *the nuclear threat emergency response plan shall include annual*  
32 *training for officers, or more frequent training, if deemed*  
33 *necessary by the Department of the California Highway Patrol.*  
34 *This training shall include training in radiation safety and*  
35 *emergency response. Training programs of officers shall be*  
36 *implemented at least 12 months prior to the shipment date for the*  
37 *initial shipment, along a given route, and six months prior to the*  
38 *shipment date for subsequent shipments along that same route, as*  
39 *needed. Shippers shall notify the Department of the California*



1 Highway Patrol in writing one year in advance of the shipment  
2 date.

3 (2) The Office of Emergency Services shall evaluate the  
4 training program at least once every two years.

5 (c) In addition to the regulations adopted pursuant to  
6 subdivision (d) of Section 114820, the department, in consultation  
7 with the Department of the California Highway Patrol, shall adopt  
8 regulations, in accordance with Chapter 3.5 (commencing with  
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
10 Code, to promote the safe transportation of high-level radioactive  
11 waste and spent nuclear fuel, in compliance with the review and  
12 compatibility requirements of Section 114765.

13 (d) In addition to Section 33000 of the Vehicle Code, the  
14 Department of the California Highway Patrol, after consulting  
15 with the department, shall adopt regulations in compliance with  
16 the review and compatibility requirements of Section 114765  
17 specifying the time at which shipments may occur and the routes  
18 that are to be used in the transportation of cargoes of high-level  
19 radioactive waste and spent nuclear fuel. The department shall  
20 conduct at least one public hearing on each proposed shipment  
21 route before adopting those regulations.

22 (e) A shipper of high-level radioactive waste and spent nuclear  
23 fuel shall participate in a real time, continuous tracking program,  
24 including, but not limited to, the TRANSCOM system of the  
25 Department of Energy, commencing on or before July 1, 2004, in  
26 order to facilitate a more efficient response to an emergency  
27 situation. The Office of Emergency Services shall monitor the  
28 system with assistance from the department and the Department of  
29 the California Highway Patrol.

30 (f) A shipper of high-level radioactive waste and spent nuclear  
31 fuel shall provide the department with proof and results of at least  
32 one example of full-scale physical testing of those casks to be used  
33 to transport high-level radioactive materials and spent nuclear  
34 fuel. Full-scale physical testing shall include, but not be limited to,  
35 an assessment of the safety of the casks as well as of the  
36 vulnerability of the casks to terrorist attack. The appropriate  
37 federal agency, if so authorized, shall conduct the full-scale  
38 physical cask testing and provide the results of that testing to the  
39 shipper. If the appropriate federal agency does not conduct that  
40 testing, the manufacturer shall do so and provide the results to the

1 shipper. The test results shall be evaluated by the department based  
2 upon the standards established by the Nuclear Regulatory  
3 Commission.

4 (g) The department shall submit a report to the Legislature, on  
5 or before July 1, 2005, on the studies specified in subdivision (a),  
6 together with recommendations for any necessary changes in  
7 transportation regulations.

8 SEC. 4. Section 114822 is added to the Health and Safety  
9 Code, to read:

10 114822. (a) A person transporting spent nuclear fuel or  
11 high-level radioactive waste by vehicle shall transport that fuel or  
12 waste in convoys of cask-bearing vehicles, unless the Department  
13 of the California Highway Patrol, for reasonable cause and in the  
14 interest of safety, waives that requirement in writing.

15 (b) A person transporting spent nuclear fuel or high-level  
16 radioactive waste by railroad may not transport that fuel or waste  
17 with mixed cargo shipments.

18 SEC. 5. Section 114823 is added to the Health and Safety  
19 Code, to read:

20 114823. (a) A person transporting spent nuclear fuel or  
21 high-level radioactive waste by vehicle shall be escorted by the  
22 Department of the California Highway Patrol, unless the  
23 department, after consultation with the Department of the  
24 California Highway Patrol, for reasonable cause and in the  
25 interest of safety, waives the escort requirement in writing. The  
26 person transporting the spent nuclear fuel or high-level  
27 radioactive waste by vehicle shall comply with the notification  
28 requirements set forth in subdivision (e) of Section 33002 of the  
29 Vehicle Code. A health physicist, designated by the department,  
30 shall also escort these vehicular shipments of high-level  
31 radioactive waste and spent nuclear fuel.

32 (b) A person transporting spent nuclear fuel or high-level  
33 radioactive waste by rail shall be escorted by emergency response  
34 personnel provided by the shipper or carrier, unless the  
35 department, for reasonable cause and in the interest of safety,  
36 waives that requirement in writing. At least one escort shall  
37 accompany the shipment by a separate means of transport. The  
38 emergency response personnel shall also include at least one  
39 health physicist designated by the department and at least one  
40 individual having security training pursuant to the safeguards



1 *regulations adopted by the Nuclear Regulatory Commission, or as*  
2 *those regulations may be further amended (10 C.F.R. 73.37,*  
3 *Appendix D).*

4 *SEC. 6. Section 115070 of the Health and Safety Code is*  
5 *amended to read:*

6 *115070. ~~The~~ Except as provided in Section 115071, the*  
7 *frequency of inspections of radioactive materials shall be based on*  
8 *priorities established by the United States Nuclear Regulatory*  
9 *Commission.*

10 *SEC. 7. Section 115071 is added to the Health and Safety*  
11 *Code, to read:*

12 *115071. (a) All shipments of high-level radioactive waste or*  
13 *spent nuclear fuel, as defined in subdivision (a) of Section 114815,*  
14 *entering or leaving the state by vehicle on the public highways*  
15 *shall be inspected by personnel designated by the department.*  
16 *These inspections shall take place at the point of entry weighing*  
17 *station nearest the point at which the shipment enters or leaves the*  
18 *state.*

19 *(b) Vehicles carrying shipments originating within the state*  
20 *shall be inspected at the point of origin by personnel designated*  
21 *by the department.*

22 *(c) All inspections required by this section shall be conducted*  
23 *to assess both the mechanics of the vehicle of transport and the*  
24 *radiological safety of the casks.*

25 *(d) All inspections required by this section shall require the*  
26 *vehicle to conform to all applicable federal motor carrier safety*  
27 *regulations and all applicable federal hazardous materials*  
28 *regulations, and if the United States Department of Energy adopts*  
29 *the Enhanced North American Standard Inspection for*  
30 *Transportation of Radioactive Materials, to the requirements of*  
31 *those standards.*

32 *(e) This section does not apply to the transportation, delivery,*  
33 *or acceptance for delivery of radioactive materials that occurs*  
34 *solely within the authorized location of use of a person authorized*  
35 *to use, possess, transport, deliver, or store radioactive materials by*  
36 *the department or by the United States Nuclear Regulatory*  
37 *Commission.*

38 *SEC. 8. Section 115072 is added to the Health and Safety*  
39 *Code, to read:*

1 115072. (a) All shipments of high-level radioactive waste or  
2 spent nuclear fuel, as defined in subdivision (a) of Section 114815,  
3 entering or leaving the state by railroad shall be inspected at a  
4 location specified by the department and the railroad corporation.

5 (b) Rail shipments originating within the state shall be  
6 inspected at the point of origin by personnel designated by the  
7 department.

8 (c) All inspections required by this section shall be conducted  
9 to assess both the mechanics of the railcars used in transport and  
10 the radiological safety of the casks.

11 (d) An inspector from the safety division of the Public Utilities  
12 Commission, as authorized in Section 309.7 of the Public Utilities  
13 Code, shall inspect the railroad tracks of the designated routes  
14 within 24 hours prior to the transport of high-level radioactive  
15 materials or spent nuclear fuel.

16 (e) This section does not apply to the transportation, delivery,  
17 or acceptance for delivery of radioactive materials that occurs  
18 solely within the authorized location of use of a person authorized  
19 to use, possess, transport, deliver, or store radioactive materials by  
20 the department or by the United States Nuclear Regulatory  
21 Commission.

22 SEC. 9. Section 115093 of the Health and Safety Code is  
23 amended to read:

24 115093. (a) The department shall require, as a condition of  
25 issuing a license to receive, possess, or transfer radioactive  
26 materials, or devices or equipment utilizing radioactive materials,  
27 that the licensee take corrective action with regard to all  
28 contamination that results from the handling, use, storage, or  
29 transportation of radioactive materials at the licensee's facility  
30 regardless of when the contamination commenced at the facility.

31 (b) Any corrective action required pursuant to this section shall  
32 require that corrective action be taken beyond the facility  
33 boundary if necessary to protect human health and safety or the  
34 environment, unless the licensee demonstrates to the satisfaction  
35 of the department that, despite the licensee's best efforts, the  
36 licensee is unable to obtain the necessary permission to undertake  
37 the corrective action.

38 (c) When corrective action cannot be completed prior to  
39 issuance of the license, the license shall contain schedules of

1 compliance for corrective action and assurances of financial  
2 responsibility for completing the corrective action.

3 (d) (1) *If any state property is damaged, if there is a discharge*  
4 *of high-level radioactive waste or spent nuclear fuel from an*  
5 *authorized shipping package or container, or if there is a threat of*  
6 *this discharge, that results from the transportation, storage,*  
7 *holding, detention, delivery for transportation, or acceptance for*  
8 *transportation of high-level radioactive waste or spent nuclear*  
9 *fuel in this state, the state may recover from a shipper, carrier,*  
10 *bailor, bailee, or any other person responsible for that storage,*  
11 *transportation, holding, detention, delivery for transportation, or*  
12 *acceptance for transportation, all costs incurred by the state in the*  
13 *reparation of the damage, and all costs incurred, in the prevention,*  
14 *abatement, or removal of that high-level radioactive waste or*  
15 *spent nuclear fuel, including reasonable attorney's fees incurred*  
16 *with respect to recovery.*

17 (2) *For purposes of this subdivision, "high-level radioactive*  
18 *waste or spent nuclear fuel" has the same meaning as defined in*  
19 *subdivision (a) of Section 114815.*

20 SEC. 10. *Section 115156 is added to the Health and Safety*  
21 *Code, to read:*

22 115156. (a) *Notwithstanding any other provision of law, a*  
23 *bond or proof of indemnity insurance in the amount of twenty-five*  
24 *million dollars (\$25,000,000) shall be required for all intrastate*  
25 *and interstate carriers of high-level radioactive waste or spent*  
26 *nuclear fuel, as defined in subdivision (a) of Section 114815,*  
27 *subject to this chapter. Proof of the bond or indemnity insurance*  
28 *shall be provided at the time of a inspection conducted pursuant*  
29 *to Section 115071. The bond or indemnity insurance shall serve as*  
30 *collateral against liability for the damages for injury or loss of life*  
31 *suffered by a person, or the damages to property, as a result of the*  
32 *transportation of high-level radioactive waste or spent nuclear*  
33 *fuel pursuant to this chapter.*

34 (b) *The requirements of subdivision (a) may be met by the*  
35 *carrier obtaining a bond or indemnity insurance in an amount that*  
36 *is greater than the minimum requirements of subdivision (a), as*  
37 *provided by that carrier's insurance.*

38 SEC. 11. *If the State Department of Health Services*  
39 *determines that any requirement added by this act may be funded*  
40 *pursuant to subsection (c) of Section 10175 of Title 42 of the United*

1 *States Code, as provided in the Nuclear Waste Policy Act (42*  
2 *U.S.C., Sec. 10101 and following), the department shall*  
3 *implement those requirements only to the extent that the federal*  
4 *funds are provided.*

5 *SEC. 12. No reimbursement is required by this act pursuant*  
6 *to Section 6 of Article XIII B of the California Constitution*  
7 *because the only costs that may be incurred by a local agency or*  
8 *school district will be incurred because this act creates a new crime*  
9 *or infraction, eliminates a crime or infraction, or changes the*  
10 *penalty for a crime or infraction, within the meaning of Section*  
11 *17556 of the Government Code, or changes the definition of a*  
12 *crime within the meaning of Section 6 of Article XIII B of the*  
13 *California Constitution.*

